

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

| | | |
|--|---|----------------------|
| In the Matter of |) | |
| |) | |
| Implementation of Pay Telephone |) | |
| Reclassification and Compensation |) | |
| Provisions of the Telecommunications Act of 1996 |) | CC Docket No. 96-128 |
| |) | |
| Petition for Rulemaking or, in the Alternative, |) | |
| Petition to Address Referral Issues in Pending |) | |
| Rulemaking |) | |

COMMENTS OF THE GEO GROUP, INC.

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May 2, 2007

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SUMMARY

The GEO Group, Inc. is a major manager and operator of correctional facilities in the United States and worldwide. It manages and operates prisons, jails, and other correctional and detention facilities pursuant to contracts with federal, state and local corrections departments. GEO opposes the proposal of petitioners Martha Wright, *et al* for the Commission to impose rate caps or benchmarks on the rates for inmate telephone services, and to prohibit compensation payments by service providers to operators of correctional facilities. Although rates for interstate telephone calls for correctional facilities are often higher than rates for calls made from homes, offices, cellular phones or even from public telephones, provision of inmate telephone service is considerably more expensive to provide than those services. Given these unique costs and the presumptively lawful rates of non-dominant carriers, petitioners have not provided any basis which would support a conclusion that the current rates for inmate telephone service are not just and reasonable.

Inmate telephone service requires specially-constructed telephones designed to withstand the damage and abuse which occurs in prisons; it requires specially-trained personnel and technology to ensure the security and safety of the inmate population, facilities employees, and the general public, and to ensure that the telephone service is not used for unlawful or otherwise improper purposes.

More importantly, inmate telephone service is part of the overall management and operation of correctional facilities. Decisions about the management and operation of those facilities should be made by corrections professionals who are trained in and are familiar with the unique challenges of corrections management, whether they be public employees or private

contractors. The Commission should avoid inserting itself in the management and operation of correctional facilities.

Existing Commission rules governing notice and rate information adequately protect billed parties from unexpectedly high rates for inmate telephone service. Finally, the Commission should not interfere with the contractual arrangements between corrections departments, corrections management companies and inmate telephone service providers. Petitioners' suggestion for a "fresh look" policy during contract terms should be rejected.

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COMMENTS OF THE GEO GROUP, INC.

The GEO Group, Inc. (GEO), by its attorneys, hereby submits its comments in response to the alternative rulemaking proposal filed by Martha Wright, *et al* (Petitioners) in the above-captioned matter.’

INTRODUCTION

In the Alternative Petition, Petitioners propose that the Commission mandate rate caps (which they call “benchmark rates”) to be applicable to interstate long distance calls from correctional facilities. Specifically, Petitioners propose that per minute rates for debit card calls be capped at \$0.20 per minute, and that per minute rates for collect calls not exceed \$0.25 per minute. In addition, under Petitioners’ proposal, per call surcharges and call set-up charges would be prohibited. As part of their alternative proposal, Petitioners also ask the Commission to require that all prison inmates be allowed to use prepaid calling cards or debit cards rather than collect calling services.

¹ Petitioners’ Alternative Rulemaking Proposal, filed by Petitioners Martha Wright, *et al*, on March 1, 2007 in CC Docket No. 96-128 (“Alternative Petition”).

Petitioners' rate cap proposal is offered as an alternative to a structural proposal which the same Petitioners submitted to the Commission in this docket in 2003.² In that 2003 proposal, Petitioners asked the Commission to require the use of debit cards at all privately-managed corrections facilities and to implement a system of "equal access" which would enable inmates to utilize the telecommunications services of the provider of their choice. That proposal was roundly criticized by a broad range of commenters who represented the correctional services community, federal, state and local governments, public safety organizations, and telecommunications service providers. That proposal was shown to be unworkable, expensive, not secure, and well beyond the Commission's scope of authority. Accordingly, no action has been taken with respect to that proposal.

As will be explained in these comments, the proposals contained in the Alternative Petition are also outside the scope of the Commission's authority, would constitute bad public policy, would improperly and unnecessarily interfere with the ability of federal, state and local correctional agencies, as well as their private contractors, to operate and manage correctional facilities in a safe and secure manner, and should not be adopted.

GEO is a private corporation which is a major operator of correctional facilities, both in the United States and around the world, with facilities located in New York, Florida, Mississippi, Pennsylvania, Virginia, Indiana, North Carolina, Illinois, Louisiana, Idaho, Texas, Oklahoma, Arizona, Colorado, California New Mexico and Washington. In addition to constructing and operating prisons, jails, correctional facilities and detention facilities, **GEO** operates residential treatment centers, medical and mental health facilities. Housing approximately 50,000 inmates in forty-nine correctional facilities across the United States, **GEO** is one of the nation's leading

² Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking, filed November 3, 2003 ("Initial Petition").

private managers and operators of prisons and jails. It contracts with federal, state and local government correction agencies, and has extensive experience in all facets of corrections management and operation from maximum security penitentiaries to local short-term detention facilities.

As a manager and operator of correctional facilities, GEO must strike a careful balance between providing suitable living environments for federal, state and local inmates and providing safety and security for these inmate populations, employees of GEO's correctional facilities, and for the general public, and doing so within the budget parameters of its contracts with the governmental agencies for whom it operates and manages these correctional facilities. Providing inmate telephones and inmate telephone service, as well as supervising the use of that service is an important component of GEO's overall responsibilities to its government clients. GEO's ability to fulfill those responsibilities should not be impeded by a federal government mandate, however well-intentioned, to control the provision of inmate telephone services and to dictate the pricing of those services at GEO's correctional facilities.

As the manager and operator of correctional facilities pursuant to contracts with federal, state and local governmental authorities, GEO is responsible for virtually all aspects of the facilities' operations and the services provided at each facility. Inmate telephone service at GEO correctional facilities typically is provided by telecom service providers who have entered into contracts with GEO to provide those services. Alternatively, inmate telephone service at some of GEO correctional facilities is provided by telecom service providers who have entered into contracts directly with GEO's correctional agency clients. GEO readily states that its contracts with telecom service providers include compensation to GEO in the form of negotiated commission payments paid to GEO by telecommunications carriers in exchange for being the

carriers chosen to provide inmate telephone service at GEO's correctional facilities. However, it is important to understand that these commission revenues are typically utilized to cover the costs of providing inmate telephone service as well as the overall costs of operating and maintaining the facilities. Alternatively, these commission revenues are often utilized to fund inmate welfare programs at GEO's correctional facilities.

In some cases, GEO's contracts with government corrections agencies require that revenues obtained from GEO's telephone service agreements which exceed the costs of providing inmate telephone service are used to offset the cost that GEO charges the government agency, thereby reducing the funding burden borne by taxpayers. For example, as explained in the affidavit of Jeff Wrigley, Warden of the Taft Correctional Institution (a correctional facility located in California which houses federal inmates), attached hereto as Attachment A, pursuant to the terms of GEO's contract with the Federal Bureau of Prisons, income received by GEO from inmate telephone service which exceeds the salary and costs of GEO's Inmate Telephone Service Clerk is remitted to the Federal Bureau of Prisons as an offset to the compensation which GEO otherwise would receive from the federal government under that contract. In other words, the revenues derived by GEO from inmate telephone services are flowed back to the United States government to reduce the costs to the taxpaying public for the operation of this federal correctional facility.

In other cases, revenues derived from inmate telephone service are allocated directly to funds for the benefit of the inmate populations. Attached hereto as Attachment B is an affidavit of Rick Mauldin, Warden of the Arizona State Prison at Florence, Arizona. As described in Warden Mauldin's affidavit, the contract between GEO and the Arizona Department of Corrections specifically requires that revenues generated from inmate telephone service at the

Florence facility are to be deposited in the facility's Welfare and Benefits Fund for the benefit of the inmates. These funds are used to compensate employees who operate the prison commissary, to purchase and maintain recreational equipment (including sporting goods), educational supplies, library books, religious and musical items enjoyed by facility's inmates, as well as personal hygiene items for indigent inmates at the facility. At the Arizona State Prison at Florence and in other similar situations, inmate telephone service revenue is used to provide services and benefits to the inmate population – services and benefits not covered by taxpayer-funded budget allocations to the correctional facilities.

Inmate telephone service is a costly undertaking. In addition to the costs normally associated with making available inmate telephone service at correctional facilities (providing the phones, installing telephone lines and trunks, etc.), inmate telephone service requires expenditures to ensure that the service is safe and secure, that it is used only for lawful purposes, that it is not abused, and that the security of the institution is not compromised. Inmate telephone services must also ensure the safety and security of the general public. These requirements of the inmate telephone service are described in the Affidavit of Jerry Light, Information Technology Manager for GEO's Central Region, attached as Attachment C. For example, as described by **Mr.** Light, inmate telephones are subject to greater mishandling and abuse than other telephones, and therefore must be designed and constructed to resist possible destruction. Inmate telephone calls must be constantly monitored, lists of approved called parties for each inmate must be regularly updated, and sophisticated software must be utilized to allow inmate telephone calls to be recorded and to inform correctional officials if, during their telephone conversations, inmates use specific words, such as "bomb" or "escape" – words whose very usage creates security threats to the facility, its residents and employees, and to the

community at large. These hardware and software features and personnel resources are all necessary to enhance the safety and security of the prisons, the inmate population, the correctional staff, and the general public. Operators of correctional facilities rely upon commission revenues on the telephone service provided to inmates to offset the costs of these features and functionalities.

I. Operators of Correctional Facilities are not Telephone “Aggregators” within the Ambit of Section 226 Of the Communications Act

At the outset, GEO notes that any suggestion in Petitioners’ proposal that the prices and availability of telephone service at correctional institutions are in any manner analogous to those which may have afflicted the hospitality industry and public telephone industry in the past is thoroughly misplaced. In 1990, concerned about high prices for telephone services being charged at such public locations as hotels and motels, airports, hospitals, and other public and private payphone locations, Congress enacted the Telephone Operator Consumer Services Improvement Act (TOCSIA),³ whose provisions are codified at Section 226 of the Communications Act of 1934, as amended.⁴ Among other things, TOCSIA imposed certain requirements on telecommunications carriers who provided interstate telephone service at such locations, and imposed separate requirements on telephone “aggregators.” TOCSIA directed the Commission to promulgate regulations to implement the statutory requirements. The statute defines “aggregator” as “. . . any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.”⁵ Operators of correctional facilities are not “aggregators.” They neither make telephones available “to the public” nor to “transient users of

³ Pub. L. No. 101-435, 104 Stat. 986 (1990).

⁴ 47 U.S.C. § 226.

⁵ 47 U.S.C. § 226(a)(2). Section 64.708(b) of the Commission’s Rules contains an identical definition of “aggregator” (47 C.F.R. § 64.708(b)).

[their] premises.” The telephones which governmental and private operators of correctional facilities make available to inmates are not comparable to the telephones made available to the general public. Instead, these are highly sophisticated telephones, designed and constructed to withstand possible destruction by inmates with unique hardware and software safety and security functionalities. Needless to say, there is nothing “transient” about the users of these particular telephones. Indeed, the Commission has wisely held that the term “aggregator” does not apply to inmate-only phones at correctional institutions and has never sought to impose such requirements or any of TOCSIA’s requirements on those institutions or on those who provide telephone service at those institutions.⁶

Thus, for more than fifteen years, the Commission has wisely recognized that correctional institutions present “an exceptional set of circumstances” which differentiate them from situations which are subject to the market opening and rate restriction requirements of TOCSIA and the Commission’s rules. The factors which led to that 1991 determination are no less correct today than they were at that time.

II. Telephone Rates at Correctional Facilities are Just and Reasonable Given the Unique Costs incurred in Providing Service to such Institutions

Underlying Petitioners’ proposal is a false premise – that telephone rates charged at correctional facilities are unreasonably high and are inappropriate. Petitioners make this claim by comparing rates charged for inmate telephone service at correctional facilities with rates charged for telephone service available to consumers elsewhere. GEO does not dispute that the prices charged for interstate telephone calls made from facilities which it operates are higher than the prices charged for interstate calls paid by the general public from their homes, from their cellular phones, or even from some public pay telephones. However, GEO hastens to note that

⁶ Policies and Rules Concerning Operator Service Providers, 6 FCC Rcd 2744 (1991) at ¶15.

Petitioners have distorted and exaggerated the rates for inmate telephone service. Petitioners claim that “typical” long distance inmate collect calling rates include a per-call surcharge of \$3.95 plus as much as \$0.89 per minute.⁷ While the calling rates charged at GEO managed or operated facilities vary depending on the specific facility and specific contracts, in general, rates are lower than the “typical” rate level asserted by Petitioners. This is illustrated by several examples: at a GEO-operated facility in Lawton County, Oklahoma, collect calls are subject to a per call charge of \$3.00 - \$3.25 plus per minute charges between \$0.134 and \$0.327, depending on time and distance; at a GEO-operated facility in Coke County, Texas, collect calls are subject to a set-up charge of \$2.25 - \$2.50 plus per minute charges between \$0.45 -.55; and at a GEO-operated facility in Denver, Colorado (which GEO operates on behalf of the Department of Homeland Security’s Immigration and Custom Enforcement), interstate long distance rates are charged at \$0.17 per minute, with no per call charges. All of these rates are less than the rates quoted by Petitioners.

The implication that inmate calling services – and the costs of providing such services – are comparable with the rates for telephone services used by the general public and that the rates should be comparable is unsupported and unsupportable. Neither is the corollary implication that rates for operator-assisted calls from confinement facilities which exceed the rates for direct dialed, wireless, and even other payphone rates, are not just and reasonable.

Nowhere acknowledged in the Alternative Petition is the fact that rates for operator-assisted calling services always seem high relative to rates for direct dial services which consumers normally use from their homes or offices. Collect calling necessarily involves accessing an operator-assisted calling platform, and the intervention of an operator, either live or

⁷ Alternative Petition at 2.

automated. Such systems include call verification and routing equipment, billing software, and often live operators, who set up the calls and arrange for billing of those calls to a billed party. Moreover, most operator-assisted call billing is performed by third party billing service providers pursuant to contracts between those billing companies and the telecommunications carriers. The cost of these billing services constitute additional costs which need to be recovered in the calling rates. The fact that direct dial calling, discounted rate plans, and bundled packages of wireless service (which include long distance calling without separate toll charges) are not available to inmates at correctional facilities does not mean that the costs of providing operator-assisted calling services at correctional facilities are not real and that the rates charged for those calling services are not just and reasonable pursuant to Section 201(b) of the Communications Act.⁸

In addition to the costs normally associated with provision of operator-assisted services, provision of inmate telephone services require unique sophisticated hardware and software in order to enhance the safety and security of the correctional facility, the inmate population, the correctional staff, and the general public. These unique services impose substantial additional costs – costs which the service providers are entitled to recover in their rates. Whether or not the rates for collect calls from correctional facilities seem high when compared with rates for wholly dissimilar calling services, there is no evidence to suggest that such rates are not needed to recover these costs. Any suggestion that the rates for inmate telephone service are unreasonably high would be pure speculation on the part of the Commission and certainly would not warrant the unprecedented and extraordinary regulatory intervention requested by the Alternative Petition.

⁸ 47 U.S.C. § 201(b).

Moreover, implicit in Petitioners' proposal is the notion that inmate long distance telephone service rates would be subject to a "one size fits all" solution. There are vast differences among the thousands of federal, state, local, and private correctional facilities throughout the U.S. which affect the costs of providing inmate long distance telephone service from those facilities. There are differences in the security levels of the facilities; the size of the facilities; in inmate populations; in the facilities' age; in the numbers of telephones per inmate; in the distance from population centers where most called parties are located; in the numbers of telecom vendors willing to provide service; in salary levels for employees at the institutions; etc. Each of these factors affects the costs of providing inmates' long distance telephone service at each institution. Given these profound differences, there is no basis for the Commission to prescribe any rate cap or benchmark rate for interstate calls from all correctional facilities.

Petitioners assert at page 4 of the Alternative Petition that their rate cap proposal is "less regulatory" than the structural proposals which were made in 2003, and which appear to have been abandoned. Without engaging in a comparison to determine which of its proposals – that in the 2003 Initial Petition or that in its 2007 Alternative Petition – is more regulatory, it is difficult to imagine any proposal which would be more regulatory than establishment of mandatory maximum rates. Setting such rate maximums, whether they are labeled as "rate caps," "benchmarks," or anything else, necessarily would require the Commission to determine for every correctional facility across the country how much it costs to provide inmate telephone service at the facility, and what rates should be charged for interstate telephone services available to the inmates housed at the facility. Not only would this impose upon the Commission the wholly untenable task of conducting a multitude of inmate telephone rate cases, it would place the Commission in the inappropriate position of making judgments about the operation or

management of correctional facilities – judgments which should be made, not by the Federal Communications Commission, but rather by federal, state, and local correctional agencies responsible for the safety and security of these facilities, the inmates in these facilities, the correctional staff working at these facilities and the general public.

The Alternative Petition “supports” its assertion that rate caps of \$0.20 per minute for debit card calls and \$0.25 per minute for collect calls, with no surcharges, would be just and reasonable, with a series of comparisons with other services.’ Each of the situations involving such comparisons relied on by the Alternative Petition is readily distinguishable. None of those situations involve the unique difficulties and costs associated with provision of safe and secure inmate telephone service at correctional facilities. More importantly, references to a series of irrelevant and readily distinguishable situations cited in footnotes to the Alternative Petition hardly constitute a basis upon which to prescribe benchmark rates or rate caps in conformance with the statutory requirements of the Communications Act.

Section 205(a) of the Act is specific and unequivocal:

Whenever, after full opportunity for hearing, upon a complaint or under an order for investigation and hearing made by the Commission on its own initiative, the Commission shall be of opinion that any charge, classification, regulation or practice of any carrier or carriers is or will be in violation of any of the provisions of this Act, the Commission is authorized and empowered to determine and prescribe what will be the just and reasonable charge or the maximum or minimum, or maximum and minimum, charge to be thereafter observed,¹⁰

Section 205 simply does not allow the Commission to prescribe rate caps or benchmark rates for carriers serving correctional institutions based upon the Alternative Petition’s anecdotal examples. There would be a need for hearings in full conformance with Section 205 for each

⁹ Alternative Petition at 16-20.

¹⁰ 47 U.S.C. § 205(a).

and every telecommunications service provider offering interstate telecommunications at each and every correctional facility, and any prescriptions for maximum permissible rates would need to be supported by record evidence that such prescribed rates are just and reasonable based upon the provider's costs and other applicable criteria.

III. Imposition of Rate Caps on Interstate Calls from Correctional Institutions Would be Inconsistent with Well-established Commission Precedent, including the Presumption of Lawfulness which is Accorded to the Rates of Non-dominant Carriers

Under the Commission's rules and applicable policies, all providers of interstate interexchange telecommunications services are considered to be non-dominant carriers.¹¹ As such, their rates are presumptively lawful. Indeed, such non-dominant carriers are prohibited by the Commission's rules from offering their services pursuant to filed tariffs.¹² Each of the telecommunications service providers which provides interstate calling services at a correctional facility is a non-dominant carrier whose charges are presumptively lawful. At no time has the Commission ever sought to reclassify such otherwise non-dominant carriers as dominant, nor has the presumption of lawfulness of their rates ever been rebutted.¹³ As non-dominant carriers under the Commission's rules, those providers are not subject to dominant carrier regulation. The remedy sought by the Alternative Petition – imposition of mandatory rate benchmarks or

¹¹ Section 61.3(y) of the Commission's Rules defines "non-dominant carrier" as "[a] carrier not found to be dominant." Section 61.3(q) defines "dominant carrier" as "[a] carrier found by the Commission to have market power (i.e., power to control prices)." As far back as 1981, the Commission determined that all facilities-based and resale interexchange carriers other than AT&T should be classified as non-dominant. See Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor (First Report and Order), 85 FCC2d 1 (1981). In 1995, the Commission extended non-dominant status to AT&T's interstate interexchange services.

¹² 47 C.F.R. § 61.18.

¹³ As noted at Section I of these comments, obligations imposed by TOCSIA on providers of interstate operator services to aggregator locations have never been deemed to be applicable to providers of service to correctional facilities.

caps -- is simply not consistent with the presumption of lawfulness which accompanies those providers' service offerings.

In the Alternative Petition, Petitioners characterize the absence of price restraining competition for inmate telephone services at correctional facilities as a "market failure."¹⁴ Contrary to that claim, there has been no market failure in the provision of these services at correctional facilities. A market failure would exist if, due to some anomalous circumstance, the existence of competition did not limit or discipline prices. There was never intended to be a competitive market for the provision of inmate telephone service at correctional facilities, nor could there be. Inmate telephone service is not about competition; it is not about equal access; it is not about opening of networks. Instead, inmate telephone service enhances the safety and security of the correctional facilities, the inmate population, the correctional staff, and the general public. Nothing in any federal telecom legislation nor in any Commission ruling indicates an intent that the inmate telephone service market be opened to competition. Nothing in the Communications Act requires it; nothing in TOCSIA requires it; nothing in the Telecommunications Act of 1996 requires it; nothing in the Commission's rules requires it.

For all of these reasons, to now impose dominant carrier price regulation, including rate prescriptions and benchmarks, on inmate telephone services would be an abrupt and wholly improper deviation from the provisions of the applicable telecommunications laws and more than two decades of Commission policy.

IV. Provision of Inmate Telephone Service and the Rates Charged for Such Service is the Responsibility of the Entities which Manage Correctional Facilities; it is not the Responsibility of the FCC

It should be noted that the remedy sought by the Alternative Petition is limited to the rates charged for interstate inmate telephone calls from correctional facilities. Under the

¹⁴ Alternative Petition at 14-15.

Communications Act, the Commission has jurisdiction over the rates charged for interstate telecommunications services, but it has no jurisdiction over the rates charged for intrastate telecommunications services, including local telephone service.¹⁵ Thus, even if the Commission were inclined to become embroiled in mandating maximum rates for interstate inmate telephone services, it could only do so with respect to interstate inmate telephone services. Therefore, a significant portion of the telephone calls made by inmates from correctional facilities (especially state and local correctional facilities) -- local and intrastate toll calls -- would be beyond the Commission's purview.

More importantly, the Commission should remain mindful that provision of inmate telephone services at correctional facilities is a critical component of the overall enhancement of the safety and security of these facilities, the inmate population, the correctional staff, and the general public. Whether operated by federal, state or local correction agencies themselves or by private corporations such as GEO, who operate and manage facilities under contract with these government agencies, the responsibility for the safety and security of these facilities rests with professionals in the corrections field. Inmate telephone service is one of many services provided at correctional facilities. Other services include safety and security, education and training, ecumenical services, meals, rehabilitation, and medical care. Provision of each of these services should remain with correctional experts and not "second guessed" by the Commission. Whether inmate telephone service is to be available, when, where, for how long, and at what prices, are matters for federal, state, and local correctional officials and their contractors to determine.

No better example of the fallacy underlying the Alternative Petition is its suggestion that the Commission require that all carriers serving all confinement facilities allow the use of debit

¹⁵ 47 U.S.C. §§ 152(b), 221(b).

cards as an alternative to collect calling. Admittedly, some correctional facilities do permit use of debit card as a means to pay for telephone calls. Many others do not. In GEO's case, debit card calling is permitted at certain facilities. It is not permitted at others. Availability of debit card calling is determined based upon the policies of the correctional agencies on whose behalf GEO operates the facilities, and on the provisions of the contracts between GEO and these governmental entities.

Whether to allow debit cards is a facilities management issue, the resolution of which should not be dictated by the Commission. Debit cards are items of value. In a correctional facility, items of value possessed by inmates often become items of dispute; often become sources of barter and other indicia of an "underground economy" which exists within the institution; they often are subject to theft and lead to incidences of violence, all of which increase the need for and difficulty of providing adequate security for the inmate population as well as for employees of each institution. These problems exist whether the items of value are cigarettes, snack food, books, music, illegal drugs, – or telephone debit cards.

It is not GEO's view that debit cards have no place in any confinement facility. Indeed, telephone debit cards are allowed at some GEO facilities. Rather, the decisions whether, and in what circumstances, to allow use of telephone debit cards must be made by federal, state, and local correction agencies, as well as their contractors, not by the Commission.

V. Existing Commission Rules Already Protect Recipients of Calls From Inmates Against Unwanted and Unexpected Rates

In the Alternative Petition, Petitioners note that, with respect to collect calls, it is the call recipients – often relatives and friends of the inmates – who bear the high cost of those calls. Petitioners' attention as well as the Commission's is directed to Section 64.710 of the

Commission's rules.¹⁶ That rule requires all providers of interstate telephone service from correctional facilities to fully identify themselves to the called party at the outset of any call, and to provide information as to how total rates for such calls, including surcharges, may be obtained. This information must be provided before calls are connected and before charges are incurred. Thus, the Commission already has addressed the question of inmate telephone service pricing and its impact on those who are billed for calls from inmates, and has established a rule which ensures that all billed parties have the opportunity to receive complete and detailed price information and to control their costs of phone service from correctional facilities. The Commission's rule represents a fair balancing between the rights of consumers to have access to complete pricing information before incurring any charges on the one hand, and the rights of federal, state, and local correction agencies, as well as their contractors to manage the provision of inmate telephone service as part of the enhancement of safety and security of the correctional facilities, the inmate population, the correctional staff, and the general public on the other hand. That carefully balanced rule should not be replaced with a Commission-imposed "one size fits all" rate prescription.

VI. Decisions Regarding Commission Payments Should be made By Federal and State Corrections Officials, not by the FCC

In support of its request that the FCC prohibit payment of commission compensation in contracts governing inmate telephone service, Petitioners point out that some jurisdictions have already done so. Specifically, Petitioners cite to the example of New York State where the Governor recently announced that the State would waive commission payments on inmate calls and would renegotiate the State's inmate telephone service contract to reduce the cost of collect

¹⁶ 47 U.S.C. § 64.710.

calling.¹⁷ This decision, however, was made by state officials responsible for correctional facilities. The decision was not made by the States' public service commissions pursuant to their authority over intrastate telephone rates. Likewise, it is not now within the scope of the Commission's jurisdictional authority to make similar determinations over the compensation arrangements which exist between correctional authorities and service providers.

VII. Under No Circumstances Should the Commission Interfere with Existing Contractual Relationships between Corrections Departments, Management Companies, and Inmate Telephone Service Providers by Mandating a “Fresh Look” Policy in the Middle of Contract Terms

No provision of the Communications Act affords the Commission authority over the operations of federal, state, or local corrections agencies or private contractors hired by those agencies. Neither does the Commission's statutory authority provide it with any role to play in the procurement practices and policies of federal, state, or local governmental agencies. In short, the contracts negotiated between federal, state and local correctional agencies and prison management and operation companies like GEO or between these entities and inmate telephone service providers are subject to applicable procurement law requirements, and are not matters which should be subject to interference by the Commission.

For the reasons stated in these comments, the Commission should resist the invitation by Petitioners to impose burdensome and anachronistic rate regulation obligations on interstate telephone service from correctional facilities. As a corollary, neither should the Commission insert itself into the contractual relationships between federal and state governmental departments and inmate telephone service providers establishing “fresh look” or renegotiation periods during the terms of existing contracts. Such arrangements are the result of extensive negotiations and should not be subject to interference by the Commission.

¹⁷ Alternative Petition at 3. The Petition also references decisions in Washington and Florida to reduce inmate commissions.

CONCLUSION

As described in these comments, provision of inmate telephone service at federal, state, and local correctional facilities, as well as their private contractor's facilities, and the prices of such service are matters appropriately left to the expertise of the federal, state and local correctional authorities. The Commission should not interfere with the operations of correctional facilities by inserting itself into regulation of those institutions by dictating how services are provided or the prices charged for such services. No public interest benefit would be served by the Commission interfering with policies and procedures established by federal, state, and local correctional agencies and their contractors to a provision which ultimately enhances the safety and security of correctional facilities, the inmate population, the correctional staff, and the general public. Accordingly, it is respectfully requested that the relief sought by the Alternative Petition be denied.

Respectfully submitted,

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May 2, 2007

Attachment A

AFFIDAVIT

STATE OF CALIFORNIA

COUNTY OF KERN

Before me the undersigned authority personally appeared JEFF WRIGLEY, Warden for the Taft Correctional Institution, who, after first being duly sworn, deposes and says:

1. My name is JEFF WRIGLEY and I currently reside in Kern County, California. I am over the age of 18 and have full knowledge of the facts contained in this Affidavit.
2. I have been employed by The GEO Group, Inc. (GEO), formerly known as Wackenhut Corrections Corporation, since December 12, 2005, and serve as the Warden of the Taft Correctional Institution (TCI). TCI currently houses approximately 2,350 male federal inmates in a low security prison and in a prison camp located at the facility. TCI is operated by GEO pursuant to a contract with the U.S. Department of Justice, Federal Bureau of Prisons (BOP) awarded July 22, 1997.
3. In my capacity as the TCI Warden, I am responsible for the safety and security of the inmate population, visitors and employees at the prison, as well as the general public as it pertains to issues related to TCI. These responsibilities require that adequate procedures be implemented to ensure that inmates are not engaging in conduct which is unlawful or which compromises the criminal justice process. I am familiar with the contract between BOP and GEO for the operation of TCI, as well as the operation of the inmate telephone system at TCI.
4. The contract between GEO and the BOP for the operation of TCI requires that GEO provide a telephone system for inmates which is capable of accommodating both debit and collect phone calls. In order to make inmate telephone services available at TCI, GEO contracts with a telecommunications service provider.
5. All inmates are permitted telephone privileges which include 120 minutes of collect call access per month. Inmates are allowed up to 30 telephone numbers that the inmate is authorized to call via debit or collect call procedures. Pursuant to the terms of GEO's contract with BOP, each TCI inmate is afforded the opportunity to update the inmate's telephone list up to three times per month, except as otherwise authorized for good cause.
6. In order to provide safe and secure telephone service to TCI inmates and to ensure that these inmates utilize the telephone service in accordance with the applicable

rules, regulations and policies of TCI and the BOP, GEO assigns a fulltime employee known as an Inmate Telephone Service (ITS) Clerk to perform the administrative and clerical tasks related to provisions of telephone service.

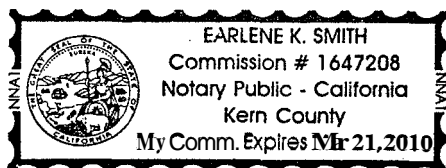
7. TCI's ITS Clerk oversees the orderly operation of the prison's inmate telephone service, and is responsible for all data entry of inmate telephone system accounts (telephone numbers, inmate telephone system credit and debit cards etc); sets up inmate telephone system account files for new and transfer inmates that arrive at the facility; generates and submits required reports relative to the inmate telephone system; and maintains strict control of TCI inmate telephone service equipment and supplies. The ITS Clerk also assists other personnel in maintaining facility security, particularly in the area of TCI inmate telephone services.
8. The salary and other costs of TCI's ITS Clerk are paid by GEO utilizing income GEO receives from TCI's inmate telephone service provider, including any commission payments made to GEO by TCI's inmate telephone service provider.
9. Additionally, pursuant to the terms of GEO's contract with BOP, any income GEO receives from TCI's inmate telephone service provider which exceeds salary and other costs of TCI's ITS Clerk is used to offset the cost of GEO's contract with the BOP.

FURTHER AFFIANT SAYETH NAUGHT.

Jeff Wrigley 4/24/07
JEFF WRIGLEY
Warden

Taft Correctional Institution

*See attached .
Notary certificate ES.*



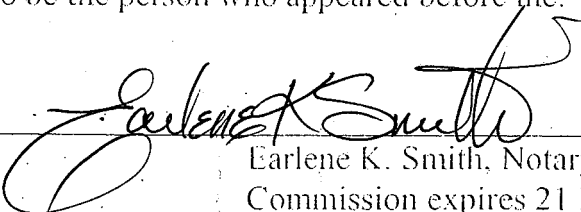
CALIFORNIA JURAT

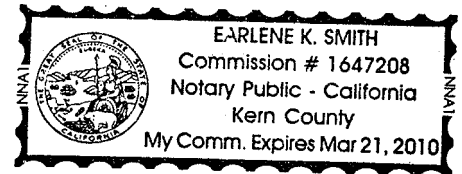
State Of California
County of Kern

Subscribed and sworn to (or affirmed) before me on
this 24th day of April, 2007.

By Jeff Wrigley

Proved to me on the basis of satisfactory evidence
to be the person who appeared before me.


Earlene K. Smith, Notary Public
Commission expires 21 March 2010



Attachment B

AFFIDAVIT

STATE OF ARIZONA

COUNTY OF PINAL

Before me the undersigned authority personally appeared RICK MAULDIN, Warden for the Arizona State Prison at Florence, who, after first being duly sworn, deposes and says:

1. My name is RICK MAULDIN and I currently reside in Maricopa County, Arizona. I am over the age of 18 and have full knowledge of the facts contained in this Affidavit.
2. I have been employed for The GEO Group, Inc. (GEO), formerly known as Wackenhut Corrections Corporation, since November 5, 2005 and currently serve as the Warden of the Arizona State Prison at Florence.
3. The Arizona State Prison at Florence currently houses approximately 750 Arizona Department of Corrections (Arizona DOC) male inmates in a medium-minimum security prison. The Arizona State Prison at Florence is operated by The GEO Group, Inc. (GEO) pursuant to a contract with the Arizona DOC awarded September 27, 1997.
4. In my capacity as a Warden, I am responsible for the safety and security of the inmate population, visitors and employees at the Arizona State Prison at Florence, as well as the general public as it pertains to issues related to the prison.
5. I am familiar with the contract between Arizona DOC and GEO for the operation of the prison, as well as the operation of the inmate telephone system at the prison. I am also familiar with Arizona DOC Order 303.04 which governs the operation of the Welfare & Benefits Fund (W&B Fund) at the prison.
6. In accordance with the terms of the contract between the State of Arizona and GEO, inmates at the Arizona State Prison in Florence are afforded access to an inmate telephone system which is operated by an inmate telephone service provider. The inmate telephone service provider contracts directly with the State of Arizona for this service.
7. Pursuant to Arizona DOC Order 303.04, commission on revenues generated from the contracted inmate telephone system at the prison are directed from the provider to Arizona DOC, which then forwards the funds to GEO for deposit in the prison's W&B Fund.

8. The W&B Fund at the Arizona State Prison in Florence is used to offset the cost associated with the salaries of the GEO employees who manage and operate the prison's commissary.
9. Finally, the W&B Fund is used to purchase and maintain recreation equipment, sporting goods, educational supplies, library books, religious items, and musical items for the inmates at the prison. Additionally, the W&B Fund helps to purchase hygiene items for indigent inmates at the Arizona State Prison in Florence.

FURTHER AFFIANT SAYETH NAUGHT.

A handwritten signature in black ink, appearing to read "Rick Mauldin", is written over a horizontal line. The signature is stylized with large, sweeping loops.

RICK MAULDIN

Warden

Arizona State Prison at Florence

STATE OF ARIZONA

COUNTY OF PINAL

BEFORE ME, the undersigned authority, personally appeared:

RICK MAULDIN who is

- ☒ personally known to me or
☐ produced _____ as identification and
☐ did take an oath
☐ did not take an oath

and having been personally sworn by me deposes and says that he signed the foregoing Affidavit and states said Affidavit is true to the best of his knowledge and/or belief.

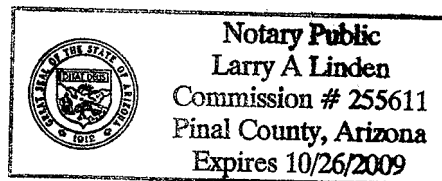
SWORN TO and subscribed before me this 27th day of
APRIL, 2007.



Notary Public, State of Arizona
At Large

My Commission expires:

10/26/09



Attachment C

AFFIDAVIT

STATE OF TEXAS

COUNTY OF COMAL

Before me the undersigned authority personally appeared JERRY LIGHT, Regional Information Technology Manager for The GEO Group Inc.'s Central Region, who, after first being duly sworn, deposes and says:

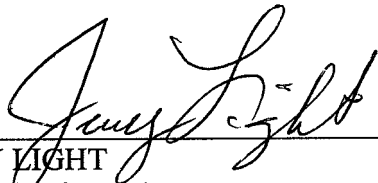
1. My name is JERRY LIGHT and I currently reside in **Hays** County, Texas. I am over the age of 18 and have full knowledge of the facts contained in this Affidavit.
2. I have been employed by The GEO Group, Inc. (GEO), formerly known as Wackenhut Corrections Corporation, since **June 6, 1995** and serve as the Regional Information Technology Manager for GEO's Central Region. In this capacity, I am familiar with the operation of inmate telephone systems at GEO correctional facilities in the states of Louisiana, Texas, and Oklahoma.
3. GEO currently operates twenty-one correctional facilities in the Central Region. Those facilities house in aggregate approximately 20,000 inmates who are under the custody of either the federal government or a state or local government.
4. Unless provided for and operated by GEO's government client or the government client's contractor, GEO or it's inmate telephone system subcontractor acquires the inmate telephone system equipment for its Central Region, installs that equipment in its facilities, operates and maintains the equipment, as well as allocates human resources to ensure that the equipment is used for lawful purposes only and in a manner which does not compromise the judicial system or the safety and security of the inmate population, institutional employees or the general public.
5. Not all of GEO's government clients allow GEO to provide telephone service to inmates. For example, it is my understanding that Texas Department of Criminal Justice (TDCJ) inmates are not authorized access to inmate telephone systems, including those TDCJ inmates housed in GEO facilities.
6. Inmate telephone systems acquired, installed, operated, and maintained by GEO or it's inmate telephone system subcontractor in its Central Regional facilities are correctional telephones installed on the wall of a specific room in the prison. Because GEO's prisons typically house individuals who may engage in violent behavior, these correctional telephones are specially designed and constructed to withstand such violence. For example, these inmate telephones are constructed of

stainless steel and include special tamperproof fixtures (buttons, mouthpieces, reinforced cords, etc.). Notwithstanding these design features and compositions, inmate telephones in GEO's Central Regional facilities are not indestructible and are susceptible to damage by inmates requiring GEO to either repair or replace the telephone.

7. Depending upon the terms of GEO's government contract, as well as the requirements of GEO's individual government clients, restrictions are placed on telephone calls made by inmates in GEO's Central Regional prisons. For example, it is my understanding that inmates cannot typically call judges, law enforcement personnel, crime victims, potential witnesses, or individuals with criminal records.
8. To ensure compliance with these restrictions, employees in GEO's Central Region are assigned to call all telephone numbers provided by an inmate to ensure that the telephone number is associated with the person(s) identified on the inmate's approved call list, as well as verify that the person(s) are willing to receive calls from the inmate. These procedures ensure that inmates do not call unauthorized individuals. It is my understanding that this process has previously allowed GEO personnel to intercept inmate telephone calls to judges, crime victims, witnesses, law enforcement personnel, and persons with criminal records.
9. Once the legitimacy of the individuals identified on each inmate's call list has been confirmed by a GEO employee, the employee then establishes an account for each inmate. This process includes assigning each inmate a Personal Identification Number (PIN). The GEO employee then manually enters the telephone numbers on the inmate's list associated with that PIN.
10. Inmates in GEO's Central Region prisons are typically permitted to initiate telephone calls during specific hours of the day as determined by the federal, state or local government client. To ensure that inmate calls are made only during these approved hours, personnel in GEO's Central Region must turn on and turn off inmate telephone service at each prison.
11. Where permissible by law and in accordance with GEO's contract, telephone calls made by inmates in GEO's Central Region are monitored (except for calls made to an inmate's attorney or legal representative) by GEO personnel to ensure that the inmate is not engaging in unlawful conduct. In addition to this live monitoring of each inmate telephone call, digital recording equipment is affixed to the inmate telephone so that inmate telephone calls may be recorded.
12. In order to record the many hundreds of inmate telephone calls made monthly from each Central Region prison, GEO maintains a sophisticated data storage system at each of its prisons, consisting of hard drives where the inmates' telephone calls are digitally recorded and preserved. For safety and security reasons, the digital recordings are also transferred to compact discs.

13. These data storage systems enable each recorded inmate telephone conversation in GEO's Central Region to be searched by the inmate's name, a particular date, or a particular telephone number. In addition, some data storage systems in GEO's Central Region are pre-programmed to "flag" key words in an inmate's telephone conversation, such as "bomb," or "escape."
14. Inmate telephone systems in GEO's Central Region are designed to enhance the safety and security of the prisons, the inmate population, the correctional staff, and the general public.

FURTHER AFFIANT SAYETH NAUGHT.

A handwritten signature in black ink, appearing to read "Jerry Light", written over a horizontal line.

JERRY LIGHT
Regional Information Technology Manager
The GEO Group, Inc.
Central Region.

STATE OF TEXAS

COUNTY OF COMAL

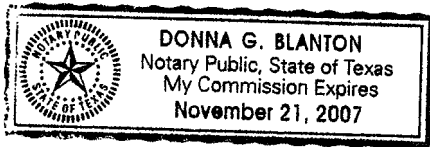
BEFORE ME, the undersigned authority, personally appeared:

JERRY LIGHT who is

- [☒] personally known to me or
[] produced _____ as identification and
[] didtakeanoath
[] didnottakeanoath

and having been personally sworn by me deposes and says that he signed the foregoing Affidavit and states said Affidavit is true to the best of his knowledge and/or belief.

SWORN TO and subscribed before me this 25th day of
April, 2007.



Donna Blanton
Notary Public, State of Texas
At Large

My Commission expires: 11/21/07